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Serial No. 10/673,027  
60130-1894; 02MRA0144**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Appellant: Le Gallo  
Serial No.: 10/673,027  
Filed: September 26, 2003  
Group Art Unit: 2837  
Examiner: Colon Santana, Eduardo  
Title: OBSTRUCTION DETECTOR FOR MOVABLE VEHICLE MEMBERS

Mail Stop Appeal Brief- Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

**REPLY BRIEF**

Dear Sir:

This is in response to the Examiner's Answer mailed on September 7, 2006. The Examiner's Answer raises a few arguments that require a brief response.

**ARGUMENTS RELATING TO DEFINING OPERATING PARAMETERS OF A  
DIRECT DETECTOR**

The Examiner states on page 7 of the Examiner's Answer that O'Connor et al. discloses that "an indication of closure position may be provided as an input from a contact-based system 100." O'Connor et al. discloses that this closure position information from the contact-based system 100 (indirect) is inputted to a controller 102 (page 24, lines 11 to 23). However, even if the contact-based system 100 outputs position information about the position of the closure to a controller 102, O'Connor et al. does not disclose that this information is used to *define* operating parameters of a non-contact system 14.

The Examiner further states that the term "define" is vague and redundant and that one skilled in the art would recognize that "to use" an operating parameter, it has to be first determined

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(sensed) in a particular way to further carry on a task. However, even taking this interpretation, O'Connor et al. still does not disclose *defining* an operating parameter of the non-contact system 14 as claimed. *Defining* an operating parameter using openable member position information is different from *using* the openable member position information. Defining has a more specific connotation.

On page 6 of the Examiner's Answer, the Examiner states that the controller "receives and transmits position information as operating parameters to dynamically adapt (adjust) each detector output signal." The Examiner refers to page 26, lines 6-30 of O'Connor et al. This section of O'Connor et al. discloses that if the contact-based system 100 determines that no obstacle is present, the system can dynamically adjust to variations in the background-reflected radiation. However, dynamically adjusting to variations in background-reflected radiation is different using this information to define operating parameters of a direct detector. The claimed invention is not anticipated.

#### **OBVIOUSNESS OF CLAIMS 5 AND 16**

The Examiner states on pages 7 and 8 of the Examiner's Answer that it would be obvious to use a charge coupled device (CCD) sensor as disclosed by Breed et al. with the light sensors in O'Connor et al. Even if the sensor of Breed et al. was employed in O'Connor et al., neither reference discloses, suggests or teaches a system that detects an obstruction in a path of an openable vehicle member including an indirect detector that indirectly detects the obstruction and outputs openable member position information to a direct detector that is used to define operating parameters of the direct detector. Therefore, the combination of the references together does not disclose, suggest or teach the claimed invention. The claimed invention is not obvious.

#### **CLOSING**

For the reasons set forth above, and for the reasons set forth in the main brief, the rejection must be reversed. No additional fees are seen to be required. If any additional fees are due,

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however, the Commissioner is authorized to charge Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, P.C., for any additional fees or credit the account for any overpayment. Therefore, favorable reconsideration and allowance of this application is respectfully requested.

Respectfully Submitted,

**CARLSON, GASKEY & OLDS, P.C.**

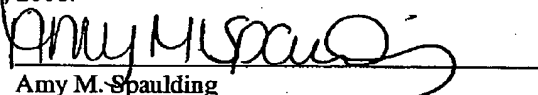


Karin H. Butchko  
Registration No. 45,864  
Attorney for Appellant  
400 West Maple Road, Suite 350  
Birmingham, Michigan 48009  
(248) 988-8360

Dated: November 8, 2006

CERTIFICATE OF FACSIMILE

I hereby certify that this reply brief is being facsimile transmitted to the United States Patent and Trademark Office, 571-273-8300 on November 8, 2006.



Amy M. Spaulding

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